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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/775,247	02/11/2004	Daniel Willis	16113-681001	1098

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FISH & RICHARDSON P.C.  
PO BOX 1022  
MINNEAPOLIS, MN 55440-1022

EXAMINER
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LASTRA, DANIEL

ART UNIT	PAPER NUMBER
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3688

NOTIFICATION DATE	DELIVERY MODE
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11/25/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATDOCTC@fr.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/775,247	<b>Applicant(s)</b> WILLIS, DANIEL	
	<b>Examiner</b> DANIEL LASTRA	<b>Art Unit</b> 3688	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11/06/2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. Claims 1-32 have been examined. Application 10/775,247 (ADVERTISING ON VIDEO EVENT DISPLAY SYSTEMS) has a filing date 02/11/2004 is a continuation in part of 10232603, filed 09/03/2002.

### ***Response to Amendment***

2. In response to Non Final rejection filed 03/31/2008, the Applicant filed an Amendment on 09/02/2008, which amended claims 1-31 and added new claim 32.

### **Claim Rejections - 35 USC § 102**

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-31 are rejected under 35 U.S.C. 102(e) as being anticipated by Lowthert (US 2002/0095675).

Claims 1, 13, 25 and 31, Lowthert teaches:

A method comprising:

*Requesting a video event from a service provider for displaying at a video event display system:*

providing an identification from the video event display system to the service provider (see paragraphs 37-38);

receiving one or more advertisements to be displayed on the video event display system, *wherein the advertisements are selected from a plurality of advertisements based on the requested video event* (see paragraph 37);

initializing the video event display system for displaying a video event and for displaying the advertisements (see paragraph 6);

displaying the requested video event on the video event display system (see paragraph 6); and

displaying the advertisements on the video event display system, when the video event is not being displayed (see paragraph 28).

Claims 2 and 14, Lowthert teaches:

providing an identification includes providing a customer personal profile, the customer personal profile for use in determining restrictions on video events provided to the video event display system, and wherein the *advertisements are selected based on the requested video event and* the provided customer personal profile (see paragraph 37).

Claims 3 and 15, Lowthert teaches:

determining the customer personal profile from data collected by the customer's Service Provider (see paragraph 38).

Claims 4, 16 and 29, Lowthert teaches:

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Displaying at a predetermined frequency the advertisements on the video event display system according to a fee charged to the customer for connecting to the Service Provider (see paragraph 17).

Claims 5 and 17, Lowthert teaches:

*Receiving one or more* advertisements includes providing the advertisements to a temporary buffer, and storing the advertisements in the temporary buffer (see paragraph 19).

Claims 6 and 18, Lowthert teaches:

displaying the advertisements on the video event display system further comprises displaying the advertisements stored in the temporary buffer on the video event display system whenever the video event display system is initialized but idle (see paragraph 28).

Claims 7 and 19, Lowthert teaches:

Displaying the advertisements stored in the temporary buffer on the video event display system whenever the video event displayed on the video event display system is interrupted (see paragraph 28).

Claims 8 and 20, Lowthert teaches:

further comprising the step of:

refreshing the advertisements stored in the temporary buffer including providing and storing another advertisement out of the plurality of advertisements in the temporary buffer (see paragraph 20).

Claims 9 and 21, Lowthert teaches:

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refreshing the temporary buffer periodically within a predetermined time interval (see paragraph 21).

Claims 10 and 22, Lowthert teaches:

using memory resources of the video event display system as the temporary buffer (see paragraph 19 “cache”).

Claims 11 and 23, Lowthert teaches:

using memory resources of a connection device establishing a connection between the video event display system and the Service Provider as the temporary buffer (see paragraph 19).

Claims 12, 24 and 30, Lowthert teaches:

wherein the video event display system comprises one of a set-top box, a gaming console, or a set-top box gaming system (see paragraph 40).

Claim 26, Lowthert teaches:

wherein the video event display system comprises a set-top box (see paragraph 40).

Claim 27, Lowthert teaches:

wherein the video event display system comprises a set-top box emulating a gaming console (see paragraph 40).

Claim 28, Lowthert teaches:

wherein the video event display system comprises a gaming console (see paragraph 6).

Claim 32, Lowthert teaches:

classifying a customer with which the customer personal profile is associated according to a set of predefined classes and wherein the advertisements are selected based on the requested video event, the provided customer personal profile, and the classification of the customer (see paragraph 43 “English or Spanish speaking people”).

### ***Response to Arguments***

4. Applicant's arguments filed 09/02/2008 have been fully considered but they are not persuasive. The Applicant argues that Lowthert does not teach Applicant's claimed invention because according to the Applicant, Lowthert does not teach determining advertising inserts or selecting advertising based on the content that the user requested to be displayed on the receiver as the claim recites that the advertisement are selected based on the requested video event. The Examiner answers that nowhere in Applicant's specification is recited that selecting advertisements based on the requested video event means selecting advertisements based on the content of the video event. Therefore, the Applicant is arguing about limitation not stated in the claims or specification. Furthermore, Lowthert teaches targeting ads based on the type of content of a video event (see paragraph 7 “targets ads based on the nature of a television program”). Therefore, contrary to Applicant's argument, Lowthert teaches Applicant's claimed invention.

### ***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- Cottingham (US 6,339,761) teaches targeting ads based upon user's demographic classification.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is 571-272-6720 and fax 571-273-6720. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James W. Myhre can be reached on (571)272-6722. The official Fax number is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Raquel Alvarez/  
Primary Examiner, Art Unit 3688

/DANIEL LASTRA/  
Examiner, Art Unit 3688  
November 19, 2008